

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VINCENT P. JIMENEZ,

Plaintiff,

v.

No. 11-cv-0707 WJ/SMV

**JEFFREY STONE, KEVIN TODACHEENIE,
FNU LUNA, CITY OF ALBUQUERQUE,
THE CITY OF ALBUQUERQUE POLICE DEP'T,
METROPOLITAN DETENTION CENTER,
FNU CANDELARIA, FNU RAMCZYK,
JOHN DOES 1–9,**

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL

THIS MATTER is before the Court on Plaintiff's Motion to Compel [Doc. 13] ("Motion"), filed on February 21, 2012. No response was filed, and none is necessary. Pursuant to Fed. R. Civ. P. 26(d)(1), because Plaintiff moves the Court to compel responses to discovery requests that were served prematurely, the Motion will be DENIED.

The instant Motion asks the Court to compel responses to a set of Requests for Production and a Subpoena Duces Tecum. Motion [Doc. 13] at 1–2. "A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)," Fed. R. Civ. P. 26(d)(1). The parties in this case have not yet conducted their Rule 26 "meet and confer" session, and therefore, Plaintiff is not entitled to seek discovery from any source.

At this point, Plaintiff has been granted leave to proceed *in forma pauperis* and the Court has directed the Clerk to issue notice and waiver-of-service forms for the remaining Defendants. Once

those Defendants have either waived service or have been served with process, and the parties have met and conferred under Rule 26, discovery will then become available to Plaintiff.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Compel [Doc. 13] is **DENIED** as premature.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Vidmar', is written over a horizontal line.

STEPHAN M. VIDMAR
United States Magistrate Judge